

## UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

TIMOTHY ACKERLEY, JOHN ALLEN, VICTOR  
 ALSINA, JOSE ALVAREZ, JOHN ANTMAN III,  
 KEITH ARMSTRONG, JOHN BACIGALUPO, JOHN  
 BADO, DONALD BAILE, JOHN BAKER, MICHAEL  
 BALCEZAK, PATRICK BARRETT, THOMAS BARTON,  
 RICHARD BEARDS III, THOMAS BELL, JOHN  
 BENDER, EDWARD BLACK, RICHARD BOGGIANO,  
 KENNETH BOLLHARDT, JOSEPH BOTTI, TODD  
 BOURKE, DENNIS BRADSHAW, DESIREE BROADY,  
 SHAWN BRODERICK, DAVID BROWN, KEITH BROWN,  
 KEVIN BROWNE, ALFRED BURGAGNI, THIERRY  
 BURICA, BRENDA BURROUGHS, GEORGE BUSKA,  
 ROBERT CAIRNS, PHILIP CALI, DAVID CALTON,  
 CESAR CAMACHO, ROBERT CAMPBELL, ROBERT  
 CANNON, ANTHONY CAPPITELLI, JOSEPH  
 CAPUANO, JOHN CARR, DENNIS CARROLL, JAMES  
 CARROLL, SHAWN CARSON, ELAINA CARTER,  
 JAMES CASCIO, KENNETH CASTELLA, JOHN  
 CAVALIERE, MARK CAVANAGH, MICHAEL CERVINO,  
 WILLIAM CHAVIS, VICTOR CHERRY, RONALD  
 CHEVESTICK, PHILIP CHIDICHIMO, FRANK  
 CHINIGO, ANTHONY CHIUOLO, JOHN CHOWANEC,  
 WALTER CHOVANEC, FRANK CINELLI, HECTOR  
 CLAVELL, PEDRO CLAVERO, FRANK CONNAUGHTON,  
 SEAN CONNORS, JOSEPH CONSALVO, GLEN COOK,  
 JAMES COOK, VICTOR COOK, VINCENT COOK,  
 VINCENT CORSO, VINCENT COSTANZA,  
 JACQUELINE COTTLE, JAMES COWAN, MARK  
 COWAN, THOMAS COWAN, THOMAS COX, JAMES  
 CRAMPTON, GLENN CRITELLI, CLIFFORD  
 CROLIUS, THOMAS CSONTOS, ROOSEVELT  
 CUMBERBATCH, JOHN CURTIS, MICHAEL CUTONE,  
 FRANK D'AGOSTA, MARK D'AMBROSIO, MICHAEL  
 DAWYBIDA, JERRY DECICCO, FRANCIS DEFAZIO,  
 DENNIS DESTEFANO, LOUIS DESTEFANO, RICHARD  
 DESTEFANO, MICHAEL DILLION, RALPH DILUCCI,  
 FRANCIS DIMAIO, FREDERICK DIMASE, COSMO  
 DISANTO, MICHAEL DISANTO, VICENT DISBROW,  
 PATRICK DITORE, EDDIE DOLAN, HENRY

C. 99-1567 (WAW)

**FILED**

APR 07 1999

 AT 8:30 <sup>M</sup>  
 WILLIAM T. WALSH  
 CLERK

COMPLAINT

DOMBROWSKI, MICHAEL DONAHUE, THOMAS  
 DONNELLY, CORNELIUS DONOVAN, BRUCE DZAMBA, :  
 RONALD EHLERS, THOMAS ENGLEKE, PETER ERLA,  
 DAVID ERNST, PETER EVANGELISTA, EUGENE :  
 FALCONETTI JR., ROBERT FALCONETTI, ROBERT  
 FARLEY, PATRICK FAY, KELVIN FAYTON, :  
 JOSEPH FERRANTE, FRANK FERRARA, JOHN  
 FESKEN, JASON FIORE, GEORGE FITZGERALD, :  
 JOSEPH FITZGERALD, JOHN FLAHERTY, BERNARD  
 FLORES, FELICE FORLANO, DONALD FORRESTER, :  
 PAUL FORRESTER, ANTHONY FORTUNATO,  
 DOMINICK FORTUNATO JR., JEFFREY FOXALL, :  
 ROBERT FRANCO, JAMES FRATTINI, ALEXANDER  
 FRAZIER, KENNETH FRENCH JR., JOHN FURCH, :  
 TIMOTHY GAEDT, ALBERT GAGUSKI, BRIAN  
 GAJEWSKI, JEFF GAJEWSKI, CHRISTIAN :  
 GALLAGHER, KEVIN GARCIA, ROBERT GARDNER,  
 ELBA GARNIER-D'AIUTO, RICHARD GARRISON, :  
 ANTHONY GENOVA, DAVID GOLDRICH, BRENDA  
 GONZALEZ, FRANK GORAL, TEDDY GORAL, WALTER :  
 GORAL, PAUL GREENE, WILLIE GRIER, ALFONSO  
 GRIFFIN, GARY GRIFFIN, PAUL GRIFFIN, JOHN :  
 GROCKI, JAMES GROSSO, GLENN GUALTIERI,  
 JEFFREY GUILFOYLE, MICHAEL GULLACE, :  
 DENNIS GUSZKOWSKI, ZYGMUND HACZYK, WILLIAM  
 HALLIGAN, JAMES HAMILTON, THOMAS HAMILTON, :  
 ROBERT HAMMER, EDWARD HANLEY, MARISA  
 HANSEN, TIMOTHY HARMON, EDWARD HART, WAYDE :  
 HAZEKAMP, CHRIS HEGER, CARLOS HERNANDEZ,  
 TYRONE HICKEY, FRANK HIGGINS, CLARENCE :  
 HILLIARD, CHRISTIAN HOWLETT, DAVID HUMEN,  
 RONALD HURLEY, DOMENICK INFANTES JR., :  
 BERNARD JACKSON, HAROLD JACKSON, PHILIP  
 JACKSON, WILLIAM JACKSON, CHRISTINE :  
 JAWOROWSKI, MICHAEL JOHNSTON, THOMAS  
 JOHNSTON, AUGUST JOY, DANIEL JOY, FRANK :  
 KAMINSKI, LEONIDAS KARRAS, SHAWN KAVANAGH,  
 FRANK KEALY, ROBERT KEARNS, ROBERT KELLER :  
 JR., JAMES KELLY JR., JOSEPH KELLY JR.,  
 MICHAEL KENNY, PHILIP KIDNEY III, PATRICK :  
 KING, MICHAEL KLEJMONT, ENDRE KOCSIS,  
 KEVIN KOT, CRAIG KUTIAK, DAVID LABRUNO, :  
 PETER LAGIS, CARMINE LANCELOTTI, FRANCIS  
 LARAWAY, JOSEPH LARDINO, PETER LAROCCO, :  
 CHARLES LAUZIÈRE, THOMAS LEACH, DEBRA LEE,  
 CHARLES LEVINE, ANTHONY LISI, BRIAN LOGAN, :  
 DENNIS LONG, ELAINE LONG, JOSEPH LOPEZ,  
 DEBORAH LUDLOW, KEITH LUDWIG, JAMES LYNCH, :  
 MICHAEL LYONS, JOHN MACDONALD, RUSSELL  
 MACDONALD, JOHN MACK, MICHAEL MAFFEI, :

✓ FRANKLIN MAISONET, KEITH MANDRIOTA, JOHN  
 MANNING, GEORGE MANUEL, EDWARD MARTINEZ, :  
 JOHN MASTROPIETRO, PAUL MATOS, COLM :  
 MCAULEY, PATRICK MCCARTHY, MICHAEL :  
 MCCORMACK, ROGER MCCREESH, DONNIE MCGHEE, :  
 JOANNE MCGILLIS, ROBERT MCGILLIS JR., :  
 MICHAEL MCKERRY, JOHN MCLELLAN, LOUIS :  
 MECKA, MOISES MENDOZA, PETER MIDGLEY, :  
 ROBERT MINERLEY, ROBERT MIRABILIO, WALTER :  
 MITCHELL, GEORGE MOORE, TIMOTHY MORAN, :  
 WILLIAM MORAN, ANTHONY MOSCHELLA, CHYRIL :  
 MULLEN, THOMAS MULLINS, HARRY MURPHY, :  
 MARTIN MURRAY, ANTHONY MUSANTE, BENJAMIN :  
 NERNEY, DINO NERNEY, EDDIE NIEVES, GEORGE :  
 NISBET JR., MICHAEL NON, TIMOTHY NOWICKI, :  
 KEVIN O'CONNELL, RICHARD O'CONNELL, JOHN :  
 O'CONNOR, THOMAS O'CONNOR, JOSEPH :  
 OLSZEWSKI, WILLIAM OLSZEWSKI, MICHAEL :  
 O'NEILL, RICHARD ORELLANA, RAYMOND ORTIZ, :  
 DAVID ORTMANN, RONALD PACHUCKI, WILLIAM :  
 PADGETT, MARK PALUGHI, DOUGLAS PANETTI, :  
 FERDINAND PAPARTEYS, ANTHONY PEKARSKY, :  
 MICHAEL PELLEGRINO, JOHN PETERS, ERIC :  
 PETERSEN, SHAUN PETERSON, RICHARD :  
 PICCILLO, ROBYN POPAILO, THOMAS PORTER, :  
 ROBERT POSS, MICHAEL POST, THOMAS PUCCI, :  
 TIMOTHY PURCELL, WILLIAM QUINN, LAWRENCE :  
 QUISH, ROBERT QUISH, BRIAN RABBITT, :  
 PATRICIA RADZIEWICZ, WILLIAM RALEIGH, :  
 THOMAS RAMIREZ, FRANK RANELLI, CHINO RANG, :  
 JOHN RANSOM, GUSTAVO RAVE, MARK RAZZOLI, :  
 JACK REDMOND, RAMON REGALADO, THOMAS :  
 REILLY, BRIDGET REVELL, MARY REVELL, :  
 MIGUEL REYES, NIXON REYES, JULIO REYES JR., :  
 DORIS REYNOLDS, JOAN REYNOLDS, MITCHELL :  
 REYNOLDS, VIOLA RICHARDSON, DENNIS :  
 RIEBESELL, ALEXANDER RIVERA, FRANCISCO :  
 RIVERA, RUBEN RIVERA, ROBERTO ROBALINO, :  
 CHRISTOPHER ROBATEAU, MARK ROBERTSON, :  
 CHARLES ROBINSON III, ERIC RODGERS, :  
 ALFREDO RODRIGUEZ JR., EDWIN RODRIGUEZ, :  
 FRANK RODRIGUEZ, WAYNE ROESCH, LOUIS :  
 ROMANO, VINCENT ROMANO JR., RICHARD :  
 ROMANSKI, ANIBAL ROSARIO, JR., GEORGE :  
 ROTONDO, MARTIN ROZKOWSKI, MICHAEL RULLI, :  
 KEITH RUSSELL, STEPHEN RUSSELL, ROBERT :  
 RYBINSKI, JOSEPH SALTARELLI, HARRY :  
 SANDWITH, JORGE SANTANA, SAMUEL SANTANA, :  
 JOSEPH SANTIAGO, JOSEPH SARAO, JOSEPH :  
 SATIRO, JOHN SCALCIONE, DAVID SCANLON, :

LOUIS SCARDIGNO, FRANK SCARPA, MICHAEL  
 SCARPA, ANTHONY SCERBO, NICHOLAS SCERBO, :  
 DARVIN SCHILD, PHILIP SCHINNAGEL, STANLEY  
 SCHMIDT, MITCHELL SCHNEE, SCOTT SCHNEE, :  
 CYNTHIA SCHULTZ, ETHEL SCHWARTZ, DANIEL  
 SEARS, WAEL SHAHID, MARK SHAVER, MICHAEL :  
 SHERBONEAU, LAWRENCE SHERIDAN, ANTHONY  
 SILVER JR., MICHAEL SLARPA, BRIAN SMITH, :  
 JEFFREY SOKOLOWSKI, DANIEL SOLLITTI,  
 RAYMOND SOLT, DANIEL SOLTYS, EDWARD :  
 SOMMERS, JESSE SOTO, FRANCIS SPRAGUE,  
 BRYAN STANTON, FRANCIS STEINHAUSER, :  
 MICHAEL STOFETY, DONNAMARIE SUAREZ, BRIAN  
 SULLIVAN, BRIAN SULLIVAN, DAVID SULLIVAN, :  
 JAMES SULLIVAN, WILLIAM SULLIVAN, CHARLES  
 SUTARIS, STEPHEN TADDEO, MICHAEL TAMBURRI, :  
 JOHN TANAJAUSKAS, ANGEL TAVAREZ, WILLIAM  
 TAYLOR JR., BERNARD TIMMINS, MICHAEL :  
 TIMMINS, HAROLD TORRES, MORGAN TORRES JR.,  
 LORENZO TOSADO JR., STEPHEN TROWBRIDGE, :  
 LEON TUCKER JR., GREGORY TULLOCK, HAROLD  
 TULLOCK, KEITH TUOHY, THOMAS TUOHY, FIDEL :  
 VAIDES, PABLO VALDELAMAR-LUNA, JOSEPH  
 VANGELAKOS, LOUIS VEGA, VALERIE VELAZQUEZ, :  
 PETER VELTRE, RALPH VELEZ, KEVIN VICTOR,  
 ILIAS VOUTSAS, FREDERICK YOUNGER, WAYNE :  
 ZACHOWSKI, BENJAMIN ZAKRZEWSKI, ANTHONY  
 WALLACE, JOHN WALSH, JOSEPH WALSH, PATRICK :  
 WALSH, JOHN WARLIKOWSKI, GARY WATSON,  
 JOSEPH WEAVER, JOHN WHALEN, DENNIS WHELAN, :  
 BENJAMIN WILSON JR., STEPHEN WILSON, JOHN  
 WISNIEWSKI and JENNIFER WOLFE, :

Plaintiffs, :

vs. :

CITY OF JERSEY CITY, :

Defendant. :

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Plaintiffs, by their attorneys, Klausner, Hunter &  
 Rosenberg, Esqs., complaining of the Defendant, respectfully  
 allege as follows:

1. Plaintiffs bring this action to recover unpaid overtime compensation and other relief under the provisions of the Fair Labor Standards Act of 1938, as amended [29 U.S.C. §§ 201-219; hereinafter the "Act" or the "FLSA"], and for a declaratory judgment under 29 U.S.C. §§ 2201 and 2202.

2. Jurisdiction of this action is conferred upon this Court by section 16(b) of the Act {29 U.S.C. § 216(b)}. Venue is also established pursuant to 28 U.S.C. section 1391(b).

#### THE PARTIES

3. Plaintiffs are each residents of the District of New Jersey, and are or were employees of the Defendant City of Jersey City and are or were employed within the Jersey City Police Department.

4. The Defendant to this action is the City of Jersey City with municipal administrative offices at 280 Grove Street, Jersey City, New Jersey 07302.

5. Pursuant to section 16(b) of the Act (29 U.S.C. § 216(b), the named Plaintiffs herein have executed and hereby file with the Court their consents in writing to become parties Plaintiff in this action, which are appended hereto. Should

additional Plaintiffs similarly situated join this action their consents will be filed with the Court.

6. The Plaintiffs are employees who are or were at all relevant times employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined by section 3(s) of the Act [29 U.S.C. § 203(s)]. More specifically, each Plaintiff is or was a Police Officer employed by the City of Jersey City within the Jersey City Police Department.

7. At all times material herein, the Plaintiffs have been entitled to the rights, protections and benefits provided under the FLSA.

8. The Defendants City of Jersey City is an employer as defined by section 3(d) of the Act [29 U.S.C. § 203(d)] and a "public agency" within 29 U.S.C. § 203(x). Upon information and belief, the Defendants at all relevant times have been aware of the provisions of the FLSA, as amended, 29 U.S.C. §§ 201, et seq.

9. The Defendant named in this action is an enterprise, as defined by section 3(r) of the Act [29 U.S.C. § 203(r)].

PLAINTIFFS' ENTITLEMENTS TO OVERTIME PAY UNDER THE ACT  
FIRST CLAIM

10. Employees covered under the Act are entitled to overtime compensation at the rate of one and one-half times their regular rates of pay for all hours worked in excess of forty hours per week, except as otherwise provided in section 7 of the Act [29 U.S.C. § 207]. Section 7(a)(1) of the Act [29 U.S.C. § 207(a)(1)] provides:

Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employees receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

11. The Plaintiffs have, during the applicable statutory time periods, performed work for which they have not been compensated as required by the Act, and more particularly each Plaintiff has worked in excess of the statutory maximum number of hours provided for in section 7(a)(1) of the Act [29 U.S.C.

§ 207(a)(1)], without receiving compensation for such excess hours at a rate of one and one-half times the regular rate at which the Plaintiffs are employed. These excess hours include:

- a. Time spent during off duty hours for caring for and maintaining the dogs assigned to K-9 Officers within the Department;
- b. Time spent during off duty hours preparing D.A.R.E. presentations and time actually spent preparing D.A.R.E. programs to school children and other community based groups;
- c. Time spent regarding the care and maintenance of equipment, clothing and police vehicles assigned to the Officers;
- d. Time spent as a result of being assigned to travel to another District or another work site (other than the Plaintiff's assignment for the year in question) within the Jersey City Department.
- e. Time spent performing Jersey City Police Department work outside of the Officers' normal work schedules;
- f. Time spent working through meal breaks that were to be duty free; and
- g. Time spent attending mandated training courses relating to the Officers' duties and functions; and
- h. Time spent attending the assigned Police Training Academy.



12. The failure of Defendant to compensate Plaintiffs at one and one-half times their regular rate for such excess hours is a violation of section 7 of the Act [29 U.S.C. § 207]. Such violation is redressable by the Plaintiffs as effected employees under section 16(b) of the Act [29 U.S.C. § 216(b)].

13. Defendant, therefore, is liable to the Plaintiffs herein in the amount of Plaintiffs' unpaid compensation and an additional equal amount as liquidated damages, and for reasonable attorney's fees, together with the cost and disbursement of this action.

14. The failure by Defendant to pay such compensation is a knowing, willful or reckless violation of section 7 of the Act [29 U.S.C. § 207] within the meaning of the applicable statute of limitation [29 U.S.C. § 255(a)], for which all Defendants are equally liable.

15. Therefore, Plaintiffs herein are entitled to the unpaid overtime compensation and liquidated damages owed to them beginning three years immediately preceding the commencement of the action.

16. The employment and work records for Plaintiffs are in the exclusive possession, custody and control of the Defendant, and Plaintiffs are unable to state precisely at this time the exact amounts owing to them. The Defendant is under a duty imposed by 29 U.S.C. § 211(c) and the regulations of the United States Department of Labor to maintain and preserve payroll and other employment records with respect to Plaintiffs from which some of the amounts of Defendant's liability can be ascertained.

PLAINTIFFS' ENTITLEMENTS TO OVERTIME  
PAY UNDER THE ACT

SECOND CLAIM

17. The City of Jersey City is required to post United States Department of Labor posters advising their employees, including their Police Officers, of their minimum wage and overtime pay rights under the Fair Labor Standards Act (29 C.F.R., Section 516.4).

18. The Defendant has failed to post said United States Department of Labor posters referred to above in paragraph 17 of this Complaint in contravention of the prescriptions of 29 C.F.R., Section 516.4.

19. The failure of the Defendant to post the required Department of Labor Fair Labor Standards Act notices tolls the running of any period of limitations.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs herein request from the Court the following relief:

(a) Judgment declaring that the Defendant has willfully, recklessly, and wrongfully violated their statutory and legal obligations, and deprived the Plaintiffs of their rights, protections and entitlements under federal law, as alleged herein;

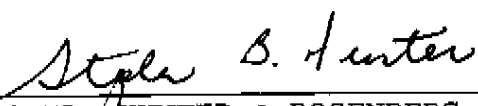
(b) An Order for a complete and accurate accounting of all the compensation to which the Plaintiffs are entitled;

(c) Judgment against the Defendant awarding each Plaintiff monetary damage in the form of back pay compensation, liquidated damages equal to their unpaid compensation, plus pre-judgment and post-judgment interest;

(d) Reasonable attorney's fees; and

(e) The costs and disbursements of this action together with such other and further relief as the Court deems proper.

Dated: 4/6/99

  
KLAUSNER, HUNTER & ROSENBERG  
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